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November 1, 2023

VIA ECF

Pamela K. Chen, U.S.D.J.
United States District Court, Eastern District of New York
225 Cadman Plaza East, Courtroom 4F North
Brooklyn, New York 11201-1804

Re: *IME Watchdog, Inc. v. Gelardi, et al.*
Case No.: 1:22-cv-1032 (PKC)(JRC)

Dear Judge Chen:

We represent defendants Safa Gelardi, Vito Gelardi and IME Companions LLC (collectively, “Defendants”) and write to request a modification of this Court’s Amended Injunction (Dkt. 80) for the limited purpose of permitting my law firm to communicate with Carlos Roa (“Roa”) in the course of our representation of Defendants in connection with the pending state court action which Roa commenced against Defendants (the “State Court Action”). (See Queens County Clerk’s Index No. 702350/2023).

Roa commenced the State Court Action against Defendants on February 1, 2023. Roa was initially represented by the firm of Zieher & Associates, P.C.. On October 27, 2023, Roa filed a Consent to Change Attorney providing that he shall be appearing *pro se* as his own attorney of record in the place and stead of Zieher & Associates, P.C..

Defendants’ motion to dismiss Roa’s State Court Action was returnable November 1, 2023, and has been fully briefed. The I.A.S. Judge’s individual rules require us to submit a Motion Submission Form on notice to all counsel of record to have our motion heard. But I was unable to submit any such form to the I.A.S. Judge due to your Honor’s Amended Injunction which precludes Defendants’ agents from contacting Roa, who is an employee of the plaintiff in the instant action. In short, we could not email Roa a copy of the Motion Submission Form without fear of being accused of “contacting” him in violation of the Amended Injunction.

My firm will be completely handcuffed in our representation of Defendants in the State

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Court Action if your Honor's Amended Injunction is not modified to allow us to contact Roa in connection with the State Court Action. We will be prohibited from, *inter alia*, emailing, calling, meeting, conferring and deposing Roa, although he is a *pro se* plaintiff, and we have already been precluded from having our motion to dismiss submitted on its original return date.

In light of the foregoing, we respectfully request that the Amended Injunction be modified to allow Warner & Scheuerman, its members and/or employees, to contact Roa in the course of our representation of Defendants in the State Court Action.

Respectfully yours,

/s/ Jonathon D. Warner

JDW/ks

cc: All counsel (via ECF)